UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Page 1

MYRNA I. JOHNSON,

Plaintiff,

v.

FRED MEYER STORES, INC.,
a Delaware corporation;
and JAIME SAN MIGUEL,

Defendants.

Case No. J04-008 CV

DEPOSITION OF MYRNA JOHNSON
Pages 1 through 264, Inclusive

Taken: Monday, January 23, 2006

Place: Juneau, Alaska

MJ Exhibit 33 Page 1 of 11

	Page 122		Page 124
1	A. Yes. We were standing in there, and he	1	A. In 30 days.
2	said, "Come on in here."	2	Q. All right. But you weren't being
3	Q. All right. So you went into Fred	3	suspended, were you?
4	Sayre's office, and he's got a separate office as	4	A. No.
5	the store director?	5	Q. You weren't being fired?
6	A. Yes, sir.	6	A. No.
7	Q. Did you sit down?	7	Q. All right. And that's consistent with
8	A. He make a gesture for me to sit down.	8	the normal procedure to give, first of all, a
9	I sit down.	9	verbal warning with a written documentation, if you
10	Q. And was Mr. San Miguel standing or	10	want an employee to improve, was it not?
11	sitting?	11	A. He didn't give me a verbal warning.
12	A. Standing.	12	Q. Well, he read you that's a verbal
13	Q. And where was Mr. Sayre?	13	warning, because he didn't ask you to sign it, did
14	A. Sitting at his desk.	14	he?
15	Q. All right. What happened at that	15	A. He wants me to sign it.
16	point?	16	Q. Now, wait a minute. At the time he
17	A. He put out a written warning notice and	17	first read it to you, isn't it true he never asked
18	start to read it to me.	18	you to sign it?
19	Q. Well, which "he"?	19	A. No, sir. He asked me to sign it.
20	A. Mr. San Miguel.	20	Q. At the beginning?
21	Q. All right. Are you saying he stood	21	A. He have a pen, and he was reading it,
22	there, or he sat down and read it to you?	22	and he was telling me to sign it. He have a pen in
23	A. He stood blocking the door.	23	his hand.
24	Q. Well, the door was closed, wasn't it?	24	Q. Well, having a pen in his hand are
25	A. Yes, he close it. So I was sitting,	25	you testifying that it is your recollection
	· · · · · · · · · · · · · · · · · · ·		
-	Page 123		Page 125
1	and then he stood right close to me with his back	1	Page 125 Mr. San Miguel asked you to sign that at the time?
1 2	and then he stood right close to me with his back behind the door.	1 2	Mr. San Miguel asked you to sign that at the time? A. Yes, sir.
	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room.		Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say?
2	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk.	2	Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is
2 3	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and	2 3 4 5	Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true."
2 3 4 5 6	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second	2 3 4 5 6	Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true?
2 3 4 5 6 7	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there?	2 3 4 5 6 7	Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery.
2 3 4 5 6 7 8	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair.	2 3 4 5 6 7 8	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same
2 3 4 5 6 7 8 9	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre	2 3 4 5 6 7 8 9	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job.
2 3 4 5 6 7 8 9	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in?	2 3 4 5 6 7 8 9	Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree
2 3 4 5 6 7 8 9 10	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre.	2 3 4 5 6 7 8 9 10	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and
2 3 4 5 6 7 8 9 10 11	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood	2 3 4 5 6 7 8 9 10 11	Mr. San Miguel asked you to sign that at the time? A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job?
2 3 4 5 6 7 8 9 10 11 12 13	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to	2 3 4 5 6 7 8 9 10 11 12	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir.
2 3 4 5 6 7 8 9 10 11 12 13	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you?	2 3 4 5 6 7 8 9 10 11 12 13	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred
2 3 4 5 6 7 8 9 10 11 12 13 14 15	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect? A. He said that my job performance he	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with job performance, with evaluation. I do not do the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect? A. He said that my job performance he talk about my recovery, and he said that if my job	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with job performance, with evaluation. I do not do the evaluation, sir.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect? A. He said that my job performance he talk about my recovery, and he said that if my job performance will not improve, I am I have to	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with job performance, with evaluation. I do not do the evaluation, sir.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect? A. He said that my job performance he talk about my recovery, and he said that if my job	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with job performance, with evaluation. I do not do the evaluation, sir. Q. All right. Let's go back. So your
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect? A. He said that my job performance he talk about my recovery, and he said that if my job performance will not improve, I am I have to I will lose, basically, my job as assistant manager. Q. Was there a time frame mentioned in the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with job performance, with evaluation. I do not do the evaluation, sir. Q. All right. Let's go back. So your testimony is that Mr. San Miguel reads you this warning and then asks you to you Mon't kight bit 33 Page 2 of 11
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 9 20 21 22 3	and then he stood right close to me with his back behind the door. Q. All right. So you came in the room. There is a doorway. There is Mr. Sayre's desk. You sit down at the chair in front of the desk, and there is no actually, there was not a second chair there, either, was there? A. There was a second chair. Q. All right. Besides the one Mr. Sayre was in? A. No, in front of Mr. Sayre. Q. Oh, all right. So Mr. San Miguel stood up there, and you said that he read something to you? A. Yes. He read the warning notice. Q. Okay. Without having it in front of you and we'll look at it a little bit later but what do you recall it said, in effect? A. He said that my job performance he talk about my recovery, and he said that if my job performance will not improve, I am I have to I will lose, basically, my job as assistant manager.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Mr. San Miguel asked you to A. Yes, sir. Q. And what did you say? A. I said, "I cannot sign this. This is not true." Q. Why is it not true? A. Because I know I did a good recovery. I know that my job performance is still the same thing from the first day that I took that job. Q. Have you had employees ever disagree with your evaluation of their job performance and walk off the job? A. No, sir. Q. So all the time you worked at Fred Meyer, no one who worked when you were supervising them at the time ever disagreed with your evaluation of their performance? A. They walk out of the job, but not with job performance, with evaluation. I do not do the evaluation, sir. Q. All right. Let's go back. So your testimony is that Mr. San Miguel reads you this warning and then asks you to sign it, and you say

Case 1:04-cv-00008-RRB Page 3 of 11 Page 128 Page 126 already by the time he finish reading it. I was I don't understand the question, sir. 1 I get a little bit confused on that. 2 already crying. 2 Did you expect this? O. Let me ask you this. What else did 3 Q. 3 Mr. Sayre say? 4 A. No. 4 5 You just told me earlier that you had Nothing. He look at me there, while I Q. 5 A. received several OVs that week from Mr. San Miguel was crying, and I stood up. 6 6 Did he say anything to you about, which were critical of your job performance, had 7 7 you not? "Don't leave. If you do, it will be considered a 8 8 9 A. In the course of the job, sir, we 9 quit"? always receive OVs a lot of time, and also because 10 10 A. No, sir. 11 I know that I am doing a good job. Q. Are you sure? 11 Well, you just told me a few minutes 12 12 A. Yes. 13 ago that Mr. San Miguel told you the very first As a first assistant under Fred Meyer 13 O. policy in effect in March 2002, who at the store, thing that standards are going to be higher when 14 15 you returned. Didn't he tell you that? if anyone, had authority to terminate an employee 15 16 A. He tell that to me because he was at your level? 16 17 showing me all those that has not been done. A. Mr. San Miguel and Mr. Sayre. 17 Do you know if Mr. San Miguel actually Q. All right. Let's go back to the 18 18 Q. 19 meeting on March the 18th, 2002. You start to cry. had authority, or if it only could be Mr. Sayre? 19 Do you say anything else to Mr. Sayre or Mr. San Miguel. 20 20 A. 21 Mr. San Miguel at that time? 21 Q. And on what do you base that A. I was crying so hard, sir, and I said, 22 conclusion? 22 "I need to go. I need to go." 23 23 Α. Because he is our immediate boss. 24 Q. Go where? Have you ever known a situation where 24 O. the department manager had the authority to fire a 25 Downstairs, where I have more space and 25 Page 129 Page 127 first assistant without the actual approval and where I can get something -- a glass of water or firing done by the store director? 2 something. 2 Did Mr. Sayre say anything? 3 Q. 3 Α. No, sir, I don't. Okay. Do you recall anything else that He said that "We know that your job 4 4 performance is affected by what happened to your was said by Mr. San Miguel or Mr. Sayre at that 5 point in time before you left the room? daughter." 6 6 7 7 A. No. Q. And did you respond to that? 8 Yes. I cry more. Okay. You have no recollection of any A. 8 comments by Mr. Sayre as to what he would conclude Did you respond to --9 O. 9 I said, "Please don't say that." I would be your situation if you got up and walked 10 A. 10 said, "I have never left this store from the day I out of the room before the discussion ended? 11 11 come in here -- from the moment I come in here 12 A. No, sir. I was crying very, very hard, sir. I was saying something, and I don't even know until the moment that we close the store. I do not 13 13 if they understand. I was saying, "I know you have leave this store. Please, do not say that, because 14 I am working harder when I was -- before what somebody in your mind" --15 15 Did you say that to them, or do you 16 happened to my daughter." 16 know if they understood that? All right. You come back from having 17 17 A. I said, "You must have somebody in mind 18 taking your daughter in a difficult family 18 situation, and upon your return, for several days to replace me." 19 19 Now, why would you say that? the department manager concludes that you are not Q. 20 20

21

22

23

24

25

O.

performing as -- in a satisfactory manner. Do you

think it unusual that he and the store director

would attribute that to a family situation?

23

24

25

A.

Q.

No --

Well then --

Because prior to that, I notice some

MJ NFX Sair Mitguel Red put Rengene of 11

changes in the store -- in the department.

schedule that is supposed to be for the second

What changes?

	Page 150		Page 152
1	2002?	1	Mr. San Miguel saw socially outside of Fred Meyer
2	A. I know he was working daytime, because	2	during 2000, 2001, 2002?
3	his schedule, sir, is different.	3	A. Yes, I know some.
4	Q. What do you mean, it's different?	4	Q. Who?
5	A. He could write himself there, the	5	A. He was going out with Kaylonna Haase at
6	schedule. For example, is 7:00 to 5:00 every day	6	the time.
7	in the schedule, but it does not necessarily mean	7	Q. Anyone else he dated that you know of?
8	he was there.	8	A. He was I know he was going out with
9	Q. Okay. Do you know how many days the	9	Minerva. Not like as friends, with wives and
10	week of March 10, 2002, he was on the schedule to	10	everything. You said socially, so
11	be working?	11	Q. All right. Let me rephrase it then.
12	A. I saw him when I walk in there on	12	How about anyone Mr. San Miguel
13	when I work on Tuesday. On the 12th, the 13th I	13	dated who worked at Fred Meyer besides Kaylonna?
14	saw him on those days.	14	A. I don't know, sir.
15	Q. Well, actually, if you think back, did	15	MR. DICKENS: Let's mark this,
16	you see the schedule for that week when you started	16	please.
17	on March 12?	17	(Exhibit 1 duly marked)
18	A. I don't remember, sir.	18	BY MR. DICKENS:
19	Q. All right. Okay. You say your	19	Q. Ms. Johnson, you have been handed what
20	schedule changed. Well, as we have already talked,	20	has been marked as Exhibit 1 to your deposition.
21	when you came back, the schedule had already been	21	For the record, would you please identify that?
22	set for the week of March 10 before you even	22	A. Yes, sir.
23	arrived back in town. Correct?	23	Q. What is that?
24	A. Yes, sir.	24	A. This is the application.
25	Q. Okay. And are you telling me that in	25	Q. Is that in your handwriting, the space
	Page 151		Page 153
1	the nine years you had worked at Fred Meyer, no one	1	above "To be completed by manager"?
2	in the apparel department had ever been given a	2	A. Yes, sir.
3	verbal reprimand of any type?	3	Q. And is the information on page 1 that
4	A. There was a lot, sir, that was given a	4	you filled in true and accurate?
5	verbal warning.	5	A. Yes, sir.
6	Q. So then giving you a verbal warning	6	Q. Would you turn to page 2, please?
7	wasn't really unusual, was it?	7	There is education listed there. There are some
8	A. He was not giving me a verbal warning,	8	places filled in. There is some information was
9	sir. It was a warning notice already.	9	it correct at the time?
10	Q. Again, I think there is a difference of	10	A. Yes, sir.
11	opinion on that, but I understand what you are	11	Q. And under your prior employment,
12	saying.	12	starting with Famous Footwear in Charlotte, North
13	In the nine years that you worked	13	Carolina, was that information correct at the time?
14	for Fred Meyer, are you telling me that no one in	14	A. Yes, sir.
15	the apparel department had been given a written	15	Q. So did you move from Charlotte, North
16	warning for poor performance?	16	Carolina, to Juneau?
17	A. There are some, sir.	17	A. Yes, sir.
17 18	Q. All right. So, again, that's not	18	MR. DICKENS: Mark that, please.
17 18 19	Q. All right. So, again, that's not unusual, either, was it?	1	MR. DICKENS: Mark that, please. (Exhibit 2 duly marked)
17 18 19 20	Q. All right. So, again, that's not unusual, either, was it?A. It was unusual when you are giving a	18 19 20	MR. DICKENS: Mark that, please. (Exhibit 2 duly marked) BY MR. DICKENS:
17 18 19 20 21	Q. All right. So, again, that's not unusual, either, was it?A. It was unusual when you are giving a warning in front of the director.	18 19 20 21	MR. DICKENS: Mark that, please. (Exhibit 2 duly marked) BY MR. DICKENS: Q. Ms. Johnson, you have been handed what
17 18 19 20 21 22	 Q. All right. So, again, that's not unusual, either, was it? A. It was unusual when you are giving a warning in front of the director. Q. But you are a first-level assistant, 	18 19 20 21 22	MR. DICKENS: Mark that, please. (Exhibit 2 duly marked) BY MR. DICKENS: Q. Ms. Johnson, you have been handed what has been marked as Exhibit 2 to your deposition.
17 18 19 20 21 22 23	 Q. All right. So, again, that's not unusual, either, was it? A. It was unusual when you are giving a warning in front of the director. Q. But you are a first-level assistant, right? 	18 19 20 21 22 23	MR. DICKENS: Mark that, please. (Exhibit 2 duly marked) BY MR. DICKENS: Q. Ms. Johnson, you have been handed what has been marked as Exhibit 2 to your deposition. Would you take a minute, please, and look at that?
17 18 19 20 21 22	 Q. All right. So, again, that's not unusual, either, was it? A. It was unusual when you are giving a warning in front of the director. Q. But you are a first-level assistant, 	18 19 20 21 22	MR. DICKENS: Mark that, please. (Exhibit 2 duly marked) BY MR. DICKENS: Q. Ms. Johnson, you have been handed what has been marked as Exhibit 2 to your deposition.

Page 5 of 11

1 A. Yes. We were standing in there, and he

- 2 said, "Come on in here."
- Q. All right. So you went into Fred
- 4 Sayre's office, and he's got a separate office as
- 5 the store director?
- 6 A. Yes, sir.
- 7 Q. Did you sit down?
- 8 A. He make a gesture for me to sit down.
- 9 I sit down.
- 10 Q. And was Mr. San Miguel standing or
- 11 sitting?
- 12 A. Standing.
- Q. And where was Mr. Sayre?
- 14 A. Sitting at his desk.
- Q. All right. What happened at that
- 16 point?
- 17 A. He put out a written warning notice and
- 18 start to read it to me.
- 19 Q. Well, which "he"?
- 20 A. Mr. San Miguel.
- Q. All right. Are you saying he stood
- 22 there, or he sat down and read it to you?
- A. He stood blocking the door.
- Q. Well, the door was closed, wasn't it?
- MJ Exhibit 33 | Page 5 of 11 25 A. Yes, he close it. So I was sitting,

1 A.	In 30 days.	
------	-------------	--

- Q. All right. But you weren't being
- 3 suspended, were you?
- 4 A. No.
- 5 Q. You weren't being fired?
- 6 A. No.
- 7 Q. All right. And that's consistent with
- 8 the normal procedure to give, first of all, a
- 9 verbal warning with a written documentation, if you
- 10 want an employee to improve, was it not?
- 11 A. He didn't give me a verbal warning.
- 12 Q. Well, he read you -- that's a verbal
- 13 warning, because he didn't ask you to sign it, did
- 14 he?
- 15 A. He wants me to sign it.
- 16 Q. Now, wait a minute. At the time he
- 17 first read it to you, isn't it true he never asked
- 18 you to sign it?
- 19 A. No, sir. He asked me to sign it.
- Q. At the beginning?
- 21 A. He have a pen, and he was reading it,
- 22 and he was telling me to sign it. He have a pen in
- 23 his hand.
- Q. Well, having a pen in his hand -- are
- 25 you testifying that it is your recollection

Page 6 of 11

- 1 Mr. San Miguel asked you to sign that at the time?
- 2 A. Yes, sir.
- Q. And what did you say?
- 4 A. I said, "I cannot sign this. This is
- 5 not true."
- 6 Q. Why is it not true?
- 7 A. Because I know I did a good recovery.
- 8 I know that my job performance is still the same
- 9 thing from the first day that I took that job.
- 10 Q. Have you had employees ever disagree
- 11 with your evaluation of their job performance and
- 12 walk off the job?
- 13 A. No, sir.
- Q. So all the time you worked at Fred
- 15 Meyer, no one who worked when you were supervising
- 16 them at the time ever disagreed with your
- 17 evaluation of their performance?
- 18 A. They walk out of the job, but not with
- 19 job performance, with evaluation. I do not do the
- 20 evaluation, sir.
- Q. All right. Let's go back. So your
- 22 testimony is that Mr. San Miguel reads you this
- 23 warning and then asks you to sign it, and you say
- 24 you won't sign it.

MJ Exhibit 33

Page 7 of 11

25 A. Yes, sir. I start to -- I was crying

- already by the time he finish reading it. I was 1
- already crying. 2
- 3 Q. Did you expect this?
- 4 Α. No.
- You just told me earlier that you had 5
- received several OVs that week from Mr. San Miguel
- which were critical of your job performance, had 7
- you not? 8
- 9 Α. In the course of the job, sir, we
- always receive OVs a lot of time, and also because 10
- I know that I am doing a good job. 11
- 12 Well, you just told me a few minutes Q.
- ago that Mr. San Miguel told you the very first 13
- 14 thing that standards are going to be higher when
- 15 you returned. Didn't he tell you that?
- 16 He tell that to me because he was
- 17 showing me all those that has not been done.
- 18 All right. Let's go back to the Q.
- 19 meeting on March the 18th, 2002. You start to cry.
- 20 Do you say anything else to Mr. Sayre or
- Mr. San Miguel at that time? 21
- 22 Α. I was crying so hard, sir, and I said,
- 23 "I need to go. I need to go."
- Go where? 24 Q.
- Page 8 of 11 25 Downstairs, where I have more Α.

- where I can get something -- a glass of water or 1
- 2 something.
- 3 Did Mr. Sayre say anything? Q.
- 4 Α. He said that "We know that your job
- performance is affected by what happened to your
- daughter." 6
- 7 0. And did you respond to that?
- Α. Yes. I cry more.
- 9 Q. Did you respond to --
- I said, "Please don't say that." I 10 A.
- said, "I have never left this store from the day I 11
- come in here -- from the moment I come in here 12
- 13 until the moment that we close the store. I do not
- 14 leave this store. Please, do not say that, because
- I am working harder when I was -- before what 15
- happened to my daughter." 16
- 17 Q. All right. You come back from having
- taking your daughter in a difficult family 18
- situation, and upon your return, for several days 19
- 20 the department manager concludes that you are not
- performing as -- in a satisfactory manner. Do you 21
- 22 think it unusual that he and the store director
- 23 would attribute that to a family situation?
- Α. 24 No --

25 Well then --Q.

MJ Exhibit 33

Page 9 of 11

1 A. I don't understand the question, sir.

2 I get a little bit confused on that.

Q. Let me ask you this. What else did

4 Mr. Sayre say?

5 A. Nothing. He look at me there, while I

6 was crying, and I stood up.

7 Q. Did he say anything to you about,

8 "Don't leave. If you do, it will be considered a

9 quit"?

10 A. No, sir.

11 Q. Are you sure?

12 A. Yes.

Q. As a first assistant under Fred Meyer

14 policy in effect in March 2002, who at the store,

15 if anyone, had authority to terminate an employee

16 at your level?

17 A. Mr. San Miguel and Mr. Sayre.

18 Q. Do you know if Mr. San Miguel actually

19 had authority, or if it only could be Mr. Sayre?

A. Mr. San Miguel.

Q. And on what do you base that

22 conclusion?

A. Because he is our immediate boss.

Q. Have you ever known a situation where

MJ Exhibit 33 Page 10 of 11

25 the department manager had the authority to fire a

Page 11 of 11

1 the nine years you had worked at Fred Meyer, no one

- 2 in the apparel department had ever been given a
- 3 verbal reprimand of any type?
- 4 A. There was a lot, sir, that was given a
- 5 verbal warning.
- 6 Q. So then giving you a verbal warning
- 7 wasn't really unusual, was it?
- A. He was not giving me a verbal warning,
- 9 sir. It was a warning notice already.
- 10 Q. Again, I think there is a difference of
- 11 opinion on that, but I understand what you are
- 12 saying.
- In the nine years that you worked
- 14 for Fred Meyer, are you telling me that no one in
- 15 the apparel department had been given a written
- 16 warning for poor performance?
- 17 A. There are some, sir.
- 18 Q. All right. So, again, that's not
- 19 unusual, either, was it?
- 20 A. It was unusual when you are giving a
- 21 warning in front of the director.
- Q. But you are a first-level assistant,
- 23 right?
- 24 A. Yes, sir.
- 25 Q. Do you know of any employee that

Page 11 of 11